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U.S. Navy Dept.
Bureau of Navigation

Case instruction

Washington

1932

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CASE INSTRUCTION

SERIAL NUMBERS 41 TO 50

COLLISION AND GROUNDING CASES

NAVY DEPARTMENT - - Bureau of Navigation

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Box 357

UNITED STATES NAVY DEPARTMENT
BUREAU OF NAVIGATION

CASE INSTRUCTION

SERIAL NUMBERS 41 TO 50
COLLISION AND GROUNDING CASES

Prepared by the Training Division
Bureau of Navigation

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1932

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COLLISION CASE No. 21

Principal points involved.

(*a*) Slip whistle crossing signals.
(*b*) Lookout on tows.
(*c*) Crowded water navigation.

Facts and opinion of court of inquiry.

(*a*) That submarine was properly handled.
(*b*) That tug transfer *No. 10* was fully responsible.
(*c*) That tug changed course.

Federal court held—

(*a*) That the tug did not have proper lookouts.
(*b*) That tug was at fault in not holding course and speed.
(*c*) That submarine was navigated dangerously.
(*d*) That both vessels were at fault.

Serial No. 41

COLLISION CASE No. 21

A submarine, *Bonita*, was under orders to proceed from the navy yard, New York, to New London, Conn. She had just completed an overhaul. On the morning of October 25, 192—, she got underway with the intention of proceeding through Hell Gate to the Sound. At 0823 she cast off, turned in the basin, sounded a long blast on her whistle, and stood out of Wallabout Basin into the East River. She proceeded at slow (one-third) speed. The weather was clear with little or no wind. The tide was ebbing.

As she stood out the captain saw a tug, transfer *No. 10*, with a car float tied up to her port side, standing south. The tug was just south of the Williamsburg Bridge in the middle of the river. Close in toward the east side of the channel, Brooklyn side, were two other tugs with their tows, all standing south with the ebb tide. This left a narrow, clear lane of water between *No. 10* and the other tugs.

As seen by the "Bonita"

As the *Bonita* stood out the captain saw these tows and decided, according to the evidence, to stand up the river leaving *No. 10* to port and others to starboard. There seemed to be plenty of room.

In order to pass *No. 10* to port, the captain ordered the starboard engine stopped and rudder put hard right. All seemed clear. The order was then given, **"All engines ahead two-thirds speed."** About this time *No. 10* appeared to be edging over toward the Brooklyn side of the river. The order was given, **"Full speed astern, both engines."**

About 0833 a 2-blast whistle signal was heard from *No. 10*. At the same time *No. 10* was seen to swing to her port, evidently with the intention of passing ahead of the *Bonita*.

At 0835 the bow of the *Bonita* struck the corner of the car float towed by *No. 10*. At the instant of colliding the *Bonita* was dead in the water.

As seen by transfer "No. 10."

Transfer *No. 10* was proceeding down along the middle of the river with the ebb tide. As she passed under the Williamsburg Bridge the *Bonita* was seen coming out of the navy-yard basin.

Transfer *No. 10* claimed that she maintained her course but saw that the *Bonita* was crossing her bow on a swinging starboard turn.

Seeing this, she gave a 2-blast signal for a starboard to starboard passing. She received no reply. The captain of *No. 10* feared a collision head-on, so he reversed and backed his engines.

When the 2-blast signal was sounded the vessels appeared to be about 300 feet apart.

Testimony of other witnesses

A sentry on post stated that he saw the submarine go out into the river past the center, turn, and then head back toward the Brooklyn side. The tug was standing down and turned to her port. All tugs were below the Williamsburg Bridge when sighted.

A barge captain testified that he saw the submarine a little below the coal pier in the center of the river. She seemed to increase headway, swing around and head upstream. The tug and barge were seen to stop dead as if backing down. She appeared to be backing down away from the submarine. The submarine seemed, at the time of the accident, to be headed for the coal pier.

The court of inquiry found that *No. 10* was at fault and that the *Bonita* was not at fault.

The court expressed its opinion in substance as follows:

That the master of the tug was responsible for the collision in that he did not keep his course, and that by changing to port he placed the submarine, which was swinging rapidly to starboard to its course, in a position that made it impossible for her to stop the swing in time to change her course to port and pass the tug and car float on the latter's starboard hand.

The tug is responsible for all damages.

The Government libeled the tug's owners.

The tug's owners libeled the Government and charged that the submarine was solely at fault for the following reasons:

1. That the submarine failed to hold back until *No. 10* had passed clear.

2. That as the submarine had proceeded to the starboard of *No. 10* she failed to pass her starboard to starboard.

3. That the submarine failed to answer *No. 10's* 2-blast signal, and failed to blow proper signals.

4. That having crossed the course of *No. 10* she rounded back toward the Brooklyn shore and was on a circular course in utter disregard of downbound traffic.

5. That the submarine did nothing to avoid the collision.

The judge in district court handed down his decision in the libel and the cross libel filed by owners of *No. 10*, that both vessels were at

fault. Pertinent extracts from his opinion on the evidence and construction of the law involved are quoted herewith:

"Thus the lookout contradicts not only himself but also the captain.

"In the light of such testimony, the contention (by the United States) that there was not a proper lookout on the tug seems entirely convincing. This is sufficient in itself to condemn the transfer *No. 10*. The *Ariadne*, 13 Wall 475, The *Oregon*, 158 U. S. 186, The *New York*, 175 U. S. 187.

"Moreover, the testimony tends to support the contention that the transfer *No. 10* was at fault in failing to keep her course and speed. * * *

"The transfer *No. 10* was the privileged vessel under the starboard hand rule and was bound to keep her course and speed just as the burdened vessel was bound to keep out of the way. The *Britannia*, 153 U. S. 130.

"Though it thus appears that the transfer *No. 10* was at fault both for failing to keep a proper lookout and for not maintaining her course and speed, it does not appear that the submarine was free from negligence. As she emerged from the entrance to the navy yard she had the downbound tows on her starboard side, and was bound to keep out of their way as well as to avoid crossing ahead of them. (Inland Rules 19 and 22.) Caution indicated that she should remain where she was because of the difficulty in effecting a starboard turn against the ebb tide and within the radius that would have made her passage safe. Her wide swing, in view of the congestion in the river at that point, was a dangerous maneuver. The port to port passing which the submarine sought involved finding the narrow passway between the transfer *No. 10* and the other tug. It seems difficult to visualize a situation in which that maneuver, that, making the wide swing to starboard and effecting a straightening out of her course so as to pass between the transfer *No. 10* and the other tug without endangering either, could have been successfully carried out.

"The normal turning circle of the submarine with both engines going ahead was about 1,000 yards. With engines used most favorably to turning, the diameter of the circle would be 300 yards. I can not see how the turning could have been effected without reaching at least the middle of the stream, where the leading tow, the transfer *No. 10*, was. In the circumstances I think her navigation was dangerous, and as she was the burdened vessel, it was unwarranted. The *Ubrik Holm*, 298 Fed. 849."

Jones v. *Sun Oil Co.*, 1928 A. M. C. 1504.

"I find both vessels at fault. The damages should be divided."

In cases involving the same Rules of the Road, Federal courts have construed the rules as shown in the following citations:

Rule as to course and signals

In *Chinook* v. *Clare*, 34 Fed. (2) 614.

"It is the proposed courses of the vessels that count if they are apparent. *Port Phillip* v. *Proteus*, 20 Fed. 2d, 729."

"Her signal had not been answered and she could not in the nature of things know what the *Chinook* proposed to do. Under such circumstances a master is bound to stop his way. *U. S.* v. *Grant*, 11 Fed. 2d, 700. There is no more important rule, since vessels, though not quite dead, will so reduce their speed that the collision, if it occurs, will be insignificant. * * * Masters who choose to divine the purpose of other vessels and keep on may avoid the charge of overcaution, but they take their chances."

Fredensbro v. *Manchester Shipper*, 1928 A. M. C., 1011.

"The testimony on the part of the *Shipper* is that the master and those with him on the bridge did not hear the 2-blast signal of the *Fredensbro*. The testimony further shows that she had no lookout in the ordinary sense of the term. The chief officer and the carpenter were stationed at the forecastle head to stand by the anchor. Although the chief officer heard the blast signals of the *Fredensbro*, he did not report them to the bridge.

"There was testimony on the part of the *Shipper* from which it is contended that, in view of the presence of the tug and hoister passing across the bow of the *Fredensbro*, the position of the tug and hoister was such that any attempt to accept and follow the 2-blast signal would have resulted in a collision of the *Shipper* with the tug and hoister, and that, if the course astern of the *Fredensbro* had been attempted, the *Shipper* could not with safety have altered her course to the westward and then upstream so as to pass between the stern of the *Fredensbro* and the piers.

"On behalf of the *Fredensbro*, it is contended that, under the special circumstances of the case, she, being in the execution of a maneuver to turn about and go downstream, was the privileged vessel, and that her pilot was justified in proceeding with the maneuver, assuming that the *Shipper* would take the course astern of her.

"Throughout the testimony on both sides of the controversy, it appears that the *Fredensbro* persisted in an attempt to exercise what her navigators considered her right to complete her maneuver, relying on the *Shipper* to accommodate her in so doing, regardless of the risk the *Shipper* would have taken of collision with the tug and tow, or with the turn to port and then to starboard which the *Shipper* would have been obliged to take to proceed across the river and then upstream on the western side. The *Shipper*, on the other hand, persisted in what her navigators considered her right to keep to the right-hand side of the stream, regardless of the movements of the *Fredensbro*.

"With ordinary care on the part of the *Fredensbro*, there seems no escape from the conclusion that, if she had not persisted in going full speed ahead across the river without observing caution when her signal was not answered, the collision could have been avoided. Her pilot vigorously claimed that he could not have gone astern without danger of striking the piers on the Philadelphia side. With no obstruction whatever between her and the apparent course of the *Shipper*, indicated by her 1-blast signal, and the pierheads on the west bank, it appears that the *Fredensbro* had the whole river below where she lay to herself, and there is no apparent reason why she could not have safely remained where she was when the tug and hoister passed her and drifted for a moment with the tide until the *Shipper* had passed her, and thus have avoided the collision.

"The same sort of persistence in exercising what the *Manchester Shipper* considered her rights is clearly shown, and, in addition to that, there is no excuse whatever offered to show why the signals of the *Fredensbro* were not heard by or reported to those on the bridge of the *Shipper*. The chief officer heard the signal and it was not answered. It was not in the line of his duty to report it to the bridge, and he frankly confessed that he did not do so. If the signal was heard by the chief officer on the forecastle head, it would have been heard by a lookout, if one had been stationed at the bow. His sole duty would have been to watch, observe, and report to the bridge, without the distraction of any other duty. If the signal had been reported and the forward movements of the *Fredensbro* observed, which could easily have been done by any one who was alert and watchful, the engines of the *Shipper* could have been reversed further down the river and the accident avoided.

"The inevitable conclusion, therefore, is that there was fault on the part of each vessel contributing to the collision.

"The facts hereinbefore found require consideration of the applicable inland rules. We will cite the ones which are considered applicable.

"Article 18, rule 3, 33 Mason's U. S. C., section 203:

"'If, when steam vessels are approaching each other, either vessel fails to understand the course or intention of the other, from any cause, the vessel so in doubt shall immediately signify the same by giving several short and rapid blasts, not less than four, of the steam whistle.'

"Article 27, 33 Mason's U. S. C., section 212:

"'In obeying and construing these rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.'

"Article 29, 33 Mason's U. S. C., section 221:

"'Nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.'

"The *Fredensbro*, having given the warning to the *Shipper* by two blasts, and having failed to get a signal of assent to the proposed starboard passage, but, in place thereof, a single blast for a port to port passage, instead of giving the danger signal required by article 18, rule 3, 33 Mason's U. S. C., section 203, went ahead with her engines and did not give what she properly considered the danger signal until too late and until the collision was inevitable.

"The *Shipper*, on the other hand, having a full opportunity of observing the fact that the *Fredensbro* was not on her course, but was maneuvering to get straightened out in the channel to go to sea, if she did not understand the course or intention of the *Fredensbro*, should have given the danger signal. If she failed to observe the movements of the *Fredensbro* or to hear the 2-blast signal, she was in that situation because of failure to have a proper lookout, properly stationed, in violation of article 29.

"Both vessels failed to have due regard to the situation involving the dangers of collision and to the special circumstances of the situation as required by article 27 (33 Mason's U. S. C. No. 212); the *Fredensbro* in going ahead and leaving to the *Shipper* the sole responsibility of escape from collision and of risking a possible and probable collision with the tug and tow, and of risking a passage through the narrow space between the *Fredensbro's* stern and the piers; the *Shipper* in failing to slow down and stop or reverse when her navigators knew or must have known that the *Fredensbro* was in the course of maneuvers to go to starboard and proceed downstream.

"The collision occurred on a fair, clear day in waters with which both were familiar, and between vessels which could without difficulty have observed the movements of each other for sufficient distance to have avoided the collision. Coamo (C. C. A.), 280 Fed. 282; Jason (Westfield), 1923, A. M. C. 168, 288 Fed. 57 (D. C.); *City of Los Angeles* v. *Standard Transportation Co.* (C. C. A.), 1929, A. M. C. 1287, 32 F. (2d) 988; George S. Tice (C. C. A.), 1923, A. M. C. 1235, 287 F. 127; Servia, 149 U. S. 144."

In *Setter-Yumuri*, 1930, A. M. C. 1502, the court held "* * * the *Yumuri* was not free from fault, first because of her failure to establish a passing agreement or to give any signal, and secondly she continued on in the face of an apparent danger of a collision."

Rule as to course and signal

In *Husatonic* v. *Bass Indre*, 1930, A. M. C. 1762. Vessels on crossing course. *Husatonic*, burden vessel, sounded one blast. The *Bass Indre* answered with one. The court, in its opinion, said "* * *. Perhaps he may have been laboring under the mistaken impression, which I believe is not uncommon among persons far higher placed than he, that such a signal from a privileged vessel in a situation like this means merely an acquiescence in an understanding of the burdened vessel's proposed course, and does not involve any duty on the part of the privileged vessel to make a change in her own course corresponding to her signal.

"It was, of course, the *Husatonic's* duty, under the rule, to blow her single-blast signal and admittedly it was a proper signal. By her answer, the *Bass Indre* advised the *Husatonic* that she had waived her position as a privileged vessel * * *.

"There is, of course, nothing immutable in the position of a privileged vessel, a privilege may be foregone. Sacony No. 5, 285 Fed. 154.

"I think, as above indicated, that by answering the *Husatonic's* signal the navigator of the *Bass Indre* possibly supposed he was merely signifying his understanding that the *Husatonic* would port and go under the *Bass Indre's* stern, and that he did not realize that under rule 28 his answer meant that he must also go to starboard * * *. A vessel that blows a whistle must, under rule 28, act accordingly, and the vessel to which this signal is blown is entitled to count on such action."

Rule as to lookouts

In *Corsair* v. *Grasseli*, 1930, A. M. C. 207, the court held, "the lookout could not see over the cars, and could not see in an up-river direction, as the tug was backing out * * *.

"*Number 27* was clearly at fault for the neglect of her lookout."

Rule as to leaving slips

In *J. C. Richert* v. *Winceco*, 1930, A. M. C. 571, the district judge said: "* * * he was hugging the pier end of the Manhattan side, was violating the provision of law requiring that all steamboats 'passing up or down the East River between the Battery * * * and Blackwells Island shall be navigated as near as possible in the center of the river.'

"While it may be admitted that the rule was made primarily for the benefit of vessels going in and out of slips and not for the protection of the boats navigating in the stream, nevertheless, violation of it has been condemned."

In *Cotopaxi* v. *Saturno*, 1927, A. M. C. 1382, the court held "* * * the reason that the starboard hand rule does not apply to vessels leaving a pier is not that another pier is close to it, but because in such a situation she is not and can not be navigating on a steady course.

"* * * The district judge rightly held that the absence of a lookout in these circumstances was a fault * * *.

"* * * We regard it as plainly negligent for a vessel to emerge from a hidden place into a frequented channel without giving ample warning of her approach and without maintaining a vigilant lookout in such a situation."

COLLISION CASE No. 22

Principal points involved.

(*a*) Slip signals and distance off pierheads.
(*b*) Cross signals and crossing courses.

Finding of facts.

(*a*) That no consent for crossing ahead was given.
(*b*) That *Transfer* crossed signals.
(*c*) That *Transfer* failed to act in extremes.

Court findings.

(*a*) That *Transfer* was solely responsible.

Serial No. 42

COLLISION CASE No. 22

On the morning of November 12, the Navy tug *Transfer* was proceeding from the navy yard, Brooklyn, to Pier 65, North River, N. Y. The tug was proceeding at a speed of about 5 knots. She rounded the Battery and stood up the North River. The tide was running ebb, wind north, visibility fair.

At 1125, when the tug was about 400 to 500 feet off the pierhead line and was about abreast of Pier 40, a ferryboat *Orange* was seen leaving the south slip of the Christopher Street Ferry. The slip signal was heard by those in charge of the *Transfer*. After leaving the slip, the *Orange* was seen to give one long blast and continue her course and speed. The signal was answered by the *Transfer*.

About 2 minutes later, when the two ships were about 250 to 300 feet apart, the *Transfer* sounded a 2-blast signal. The *Orange* answered with the danger signal, followed by one long blast. The *Transfer* answered with one blast and went astern full speed. About 30 seconds later the two ships struck.

Pertinent testimony of witnesses

The tug captain of the *Transfer* stated that he knew the *Orange* had the right of way, but he desired to cross ahead of her. Further, if the *Orange* had gone to port she would have passed clear. The *Orange* was well clear of the slip when signals, etc., were exchanged.

When asked the question, "When you saw the *Orange* coming out from her slip, what was your purpose in crossing her bow when you knew she had the right of way?" he answered, "Because the tide was throwing her down." (Meaning setting her down river.)

The tug was on a course about parallel with pierhead line (north). The *Orange* was heading diagonally across the river to upstream of northwest.

The captain of the *Orange* stated that the *Transfer* was heading about west-northwest when he heard the 2-blast signal. He did not change course or speed after giving danger signal. Further, the collision occurred about 800 to 1,000 feet off the pierhead line about abreast of Pier 45. Nothing the *Orange* could have done would have averted the collision.

The testimony of the master of the *Orange* and of the tug master who witnessed the accident was to the effect that if the *Transfer*

had immediately stopped, reversed, and put her rudder full right when the danger signal was sounded she would have gone clear.

Counsel for the *Orange* in his argument said in substance:

"It is clearly established that the collision was brought about solely by reason of the fault of those in charge of the navigation of the *Transfer*. The vessels were on crossing courses, the *Transfer* had the *Orange* on her starboard bow, the *Orange* was the privileged vessel, and the *Transfer* the burdened vessel. The *Transfer* was, under the rules, required to pass astern of the *Orange*.

"That no assent for crossing ahead was given by the *Orange* and that the *Orange* maintained course and speed as required by the Rules of the Road.

"That it was both the privilege and duty of the *Orange* to maintain her course and speed, especially so after exchange of the 1-blast signals."

The court found that the *Transfer* sighted the *Orange* in ample time; that the *Orange* maintained course and speed upon exchange of signals; that the *Transfer* later asked for change of signals; that the *Transfer* did not stop and back immediately on hearing danger signal.

The court expressed its opinion as follows:

"That the U. S. S. *Transfer* is solely responsible for the damages sustained."

Extracts from opinions of the Federal courts in circumstances involving slips and ferries which tend to clear up rights follow.

In the *Terminal*, 290 F. 533, "That the word 'speed' as used means speed over the ground and includes tide.

"The *Terminal*, having blown an improper signal, the New York Central *No. 17* had the right to cross it and blow the proper one. The *Ashley*, 221 Fed. 423."

In the *Penoles*, 3 Fed. 2–761, Judge Hand said, "I agree that though a vessel ignores the East River statute, she is not at fault unless her position is a cause and not a condition of the collision. By that the books mean only this, that when the offending vessel has been seen in reason, her position, though unlawful, is a fact with which all other vessels must reckon in their navigation. This rule is well settled in the decisions of this court under cases arising either on the East River statute or on the narrow-channel rule. *La Butagne*, 179 Fed. 286. The *Morristown*, 278 Fed. 714."

118344—32——3

COLLISION CASE No. 23

Principal points involved.

(*a*) Crowding of shipping.
(*b*) Rights of overtaken vessels.
(*c*) Liabilities of overtaking vessels.

Finding and opinion of court of inquiry.

(*a*) *Pentucket* steaming too close to vessel ahead.
(*b*) Tug originally had right of way but conceded it.
(*c*) Tug had no lookout astern.
(*d*) *Pentucket* liable as overtaking vessel.
(*e*) Tug contributory negligence for conceding right of way.

Department's decision.

(*a*) *Pentucket* solely liable.

Serial No. 43

COLLISION CASE No. 23

On the morning of August 26, 19—, at about 0920, the tug *Pentucket* left the Brooklyn Navy Yard, en route to the North River. While rounding the Battery, the *Pentucket* was following astern of the tug *William Simmons*, towing the barge *McAllister* on her starboard side. Also ahead to starboard was another tug with its tow. The *William Simmons* and tow were about one point on the port bow of the *Pentucket* and approximately 100 feet ahead. A ferry was crossing from Brooklyn to New York and passed very close under the stern of the *Pentucket*, about 10 yards. Another ferry was crossing the bow of the *William Simmons*. The *William Simmons* stopped in order to allow this ferry to pass clear ahead. The *Pentucket* stopped her engines, but her headway carried her so that she collided about amidships with the *McAllister*. The *Pentucket* was unable to back down because of the ferry passing astern of her. The tide was flooding.

The evidence of the captain of the "Pentucket"

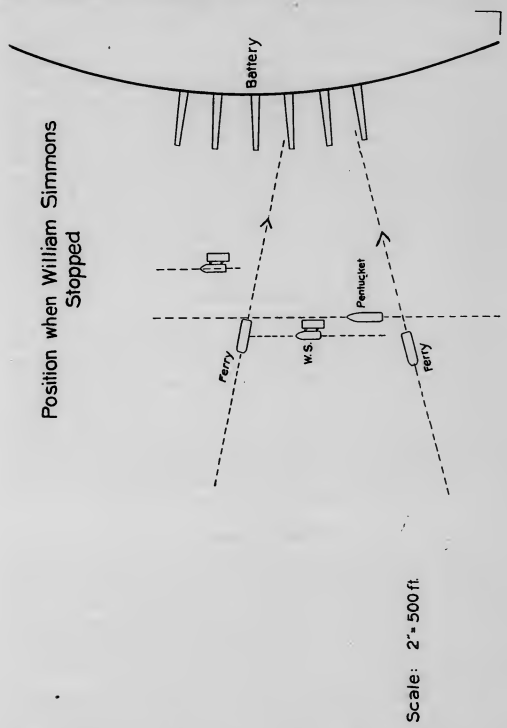
The *William Simmons* and the *McAllister* had the right of way, but the captain of the *Pentucket* stated that there were circumstances which placed him so that he could not avoid the collision. He stopped his engines but his headway was so great that he collided with the barge ahead. He stated that he would have backed full speed, except for the fact that the ferry crossing his stern was so close that if he had done so he would have collided with her.

The evidence of the "William Simmons"

On the morning of August 26, while towing the *Edward McAllister* off the Battery, the *William Simmons*, after answering a 2-blast signal, slowed down to allow a Staten Island ferry to cross her bow. After the ferry had cleared the tugboat, the fairway was clear for the *William Simmons* to proceed. The tug felt a jar on the starboard side, and on investigation saw that the *McAllister* had been struck by a tug coming up from astern. The ferry passed about 50 feet ahead of the *William Simmons*, after having exchanged the proper crossing signals. Although the *William Simmons* had the right of way over the ferry, she gave up this right of way and allowed the ferry to pass ahead. At no time had she noticed the *Pentucket* astern of her.

Argument of the "Pentucket"

"From the evidence it appears that the two tows were converging and rounding the southern point of Manhattan. From common



everyday knowledge it is natural for a tow when rounding the point to cut in nearer toward the shore. As I was astern of the *William Simmons*, her cutting in toward the shore resulted in the accident."

Argument of the "William Simmons"

"The *William Simmons* was without fault in any particular. The Navy tug was the overtaking vessel and proceeded in a reckless and unseamanlike manner in that (1) it neglected to indicate by the required signals that it intended to pass the *William Simmons* and her tow; (2) in that it did not keep off and away from the *William Simmons* and her tow, and in that if the story of the Navy tug's commander is to be accepted, there is no warrant whatever for proceeding behind the *William Simmons* in a congested harbor in such close proximity as to render the Navy tug out of control when the *William Simmons* slowed down to enable the ferryboat to make her slip; (3) in that the master of the Navy tug paid no attention whatever to the 2-whistle signal of the ferryboat, asking the assent of the tug *William Simmons* to permit her to pass into her slip, which signal was answered and the passage assented to by the *William Simmons*, which gave ample time for the commander of the Navy tug to place his vessel under control and stop without coming in contact with the tug *William Simmons*."

Finding of facts

The court found that the *Pentucket* coming up astern of the tow stopped her engines, but due to the short distance between her and the covered barge, *Edward McAllister*, caused her to forge ahead and strike the barge; that the *Pentucket* did not back her engines to avoid collision because the danger of attending such a maneuver would have caused her to collide with the ferryboat astern. That the tug *William Simmons* originally had the right of way over the ferry which crossed ahead, but conceded the right to the ferry, permitting her to cross her bow. That the lookout on the tug *William Simmons* did not report the proximity of the *Pentucket* to the captain of the tug.

Opinion of court

That the *Pentucket* was an overtaking vessel and as such was bound to keep clear of the *William Simmons*. That the tug master used poor judgment and jeopardized his vessel by maintaining such a close position astern of the tow. That the tug *William Simmons* originally had the right of way over the ferry ahead of her and showed contributory negligence when she conceded the right of way to the ferryboat, thus jeopardizing the *Pentucket* which was astern of her.

The department admitted that due to the *Pentucket's* close proximity to the barge, the *Edward McAllister*, the *Pentucket* was unable to stop before colliding, and that full responsibility for the collision rests with the *Pentucket* for failing to maintain a position far enough astern of the *William Simmons* to have permitted the *Pentucket* to

guard against any changes of course or speed of the *William Simmons*. The act of the *William Simmons* in conceding right of way to the ferry which crossed her bow is not considered to be a fault which can impose any responsibility on her, since she was free to navigate with respect to any vessel astern which had not signified her intention of passing or made her presence known in any way that she saw fit.

In support of this the department cited *Holly Park* v. *Frederick W. Underwood:*

"In the case of the *Holly Park-Frederick W. Underwood*, 1930, A. M. C. 650, the United States Circuit Court of Appeals, second circuit, held as follows concerning the duty of a vessel following astern of another:

"'The overtaking vessel is bound to keep such a distance behind that she can avoid a collision while permitting the vessel ahead to have freedom of choice in her navigation both in respect to speed and changes of course. No duty is imposed on the overtaken vessel to maintain her speed for the benefit of the ship behind until she on signal assents to a passing and its attendant close approach or is advised that the overtaking vessel has come into a place of danger from which she can not avert a collision without the assistance of the vessel ahead. As the *Underwood* had no signal from the *Holly Park* or timely knowledge of her proximity neither of these conditions affects this case and leaves the *Underwood* owing the *Holly Park* no duty to maintain a lookout aft.'

"To the same effect are the opinions in the cases of the *Industry-Viking*, 29 Fed. (2d) 29; M. J. Rudolph, 292 Fed. 740; and *Alcinous-Artemus*, 1930 A. M. C. 653."

Citations from decisions in the Federal courts exemplifying the rights of overtaking and overtaken vessels are given below:

The Pleiades

"If the overtaking vessel comes so close to an overtaken vessel that a sudden change of course by the latter may bring about a collision, the fault is that of the overtaking vessel. She should not come so close without a signal. As this court held in the *Merrill C. Hart*, 188 F. 49, the overtaken vessel is not required to look behind before she changes her course, however abruptly.

"In the *Merrill C. Hart*, 188 F. 49, where it is claimed that collision occurred when a tug suddenly changed her course and was struck by a steamboat which was following, Circuit Judge Lacombe says:

"'Manifestly, however, she approached so close to the vessel she supposed she was overtaking that a sudden change of course by the latter would bring about a collision.

" 'But she should not have come so close to an overtaken vessel without signal. The overtaken vessel is not required to look behind before she changes course, however abruptly.

" 'The rule is clear that, where an overtaking vessel notifies the vessel ahead that she wishes to pass and receives in reply that vessel's consent, the overtaken vessel must then hold her course and speed. Even though there had been no exchange of signals nor permission to pass, it is quite true that the overtaken vessel might maneuver with such palpable negligence as to be inexcusable, but here the sheer was caused by tide. The precautions against danger of necessity, in any case, rest to a greater extent upon the boat in the rear than upon the boat in advance, and this is imminently true of a large and fast steamer following a small and slow boat. The *Great Republic*, 90 U. S. 32.' "

In the *City of Baltimore*, 282 Fed. 490, the court states:

"She was an overtaking vessel, charged specifically with the duty of securing the assent of the other vessel before attempting to pass, and at the same time with the duty of keeping clear and out of the way of the overtaken vessel * * *."

In the *Long Island Railroad Co.* v. *Killien*, 67 Fed. 365:

"As an overtaking vessel it was the duty of the *Garden City* to keep out of the way of the tug; and in this case it was incumbent upon her, when shaping her course to pass the tug to allow a sufficient margin for safety, taking into consideration all the incidents of the situation; among them, the tendency of the cross current to deflect the course of the tug. He undoubtedly knew what reasonable allowance ought to be made for the influence of the cross current upon the course of the tug, and the dictates of ordinary prudence enjoined upon him the necessity of making such allowance.

"As I understand the rule, and it is a rule calculated to prevent collisions, a ship is at fault if it follows another in a narrow channel at such proximity and speed that when tide or current causes the ship ahead to suddenly sheer, the following ship embarrasses the navigation of the ship ahead and runs into her. The *Sicilian Prince*, 144 Fed. 951."

Serial No. 44

COLLISION CASE No. 24

Principal points involved.

(*a*) Speed of tug and tow in crowded waters.

(*b*) Ferry leaving slip.

(*c*) Signals, understanding of, and cross.

Finding of court of inquiry.

(*a*) That *Rockaway* was solely at fault.

The Federal court held—

(*a*) The *Rockaway* liable.

COLLISION CASE No. 24

On the morning of October 6, 192—, a Navy tug, towing a barge tied up alongside to starboard, was proceeding at a speed of about 6 knots up the South Branch of the Elizabeth River to the navy yard, Norfolk. The weather was clear, tide at slack water.

At 0825 she was proceeding at a speed of 6 knots. At 0826 she slowed to a speed of 3 to 4 knots. This was done in order to allow the Portsmouth-bound ferryboat *New York* to pass ahead from port to starboard. At the time this change of speed was made the tug was about 1,300 feet from the ferryboat *Rockaway*, then lying at the ferry slip.

The *New York* passed well ahead of the tug and entered the northern ferry slip. The tug proceeded, still at reduced speed. At 0829 the tug was about 450 feet from the *Rockaway*.

As seen by the tug

The *Rockaway* at this time sounded a short blast on her whistle, which was taken as indicating she was about to cast off. The tug answered, sounding two short blasts, and changed course about 2° to port.

The custom is for the ferries, when clear of the slip, to turn to the left.

The tug heard a second short blast given by the *Rockaway* just before she cleared the slip.

The tug, on hearing this signal, immediately sounded the danger signal, followed by two short blasts. The *Rockaway* answered with two blasts.

Despite the signals, the *Rockaway* proceeded straight across the river. The tug backed full speed with rudder hard left.

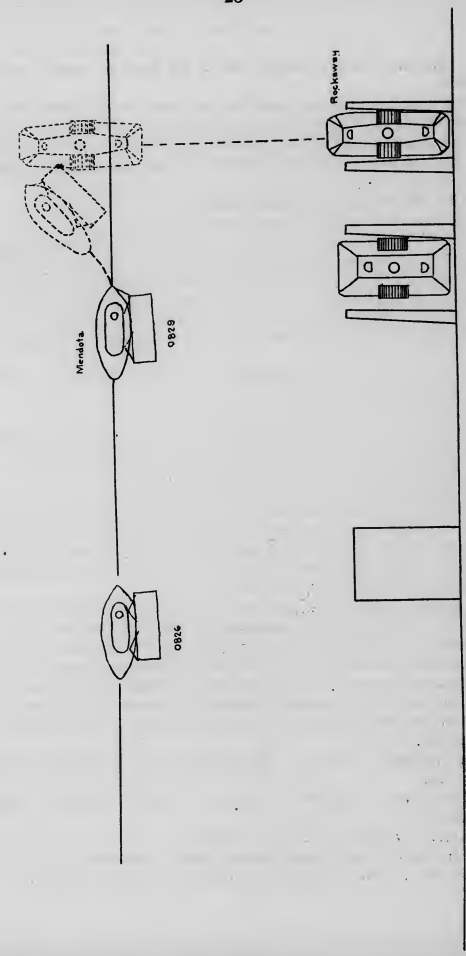
The tug master saw the ferry's paddles stop, momentarily go astern a couple of revolutions, then go ahead again.

They collided at about 0830.

As seen by the "Rockaway"

The *Rockaway* had her crew properly stationed, she blew her required slip signal, to which no vessel replied, and then proceeded out of the slip in the usual way. Shortly thereafter a tug with barge alongside was sighted standing up the river at a rapid speed.

The *Rockaway* then blew a second single-blast whistle in confirmation of her course and speed, as the tug did not seem to pay any attention to the last signal, but changed her course to port. The tug was seen, after the second blast, to blow the danger signal and reverse her engines in an attempt to cross the ferry's bow.



The *Rockaway* reversed and blew backing signals, but the tug seemed to continue her course and speed. They hit bow to bow.

Additional evidence brought out at the court of inquiry was as follows:

The captain of the tug stated that the barge he was towing was so heavy that had he tried to go to starboard he would have struck the ferry amidships instead of on the bow. No change of course or speed by the ferry was seen though she had answered the signal for a starboard to starboard passing.

The court of inquiry found as follows:

(*a*) That the *Rockaway* was solely at fault.

The ferry instituted a libel and claimed the tug was negligent in that the tug did not answer the slip signal and in that it failed to note and take account of the proper and necessary navigation of the ferry. That it did not keep out of the way as it was the burdened vessel and did not stop and reverse, and that it was proceeding too fast.

The Federal court exonerated the tug and held the *Rockaway* at fault.

Extracts from the court decisions as to acts in extremes and right of way of ships leaving slips, etc.:

The *New Yorker* v. *The Utilico No. 5*.

A tug with a barge was ascending a river, saw a fire boat about to leave its pier, and blew one blast. The fire boat blew one blast, a signal of departure, which the tug mistook for an assent. The fire boat came out on a wide curve and hit the tow.

The court held it to be a case of special circumstances and that the fire boat kept a negligent lookout, and that the tug was at fault for blowing passing signals to a vessel still in her berth, and for failure to slow down or stop when observing a vessel about to leave her pier.

In the *Maine*, 2 Fed. 2d, 605, the court held:

"While it is true that a tug with a heavy and cumbersome tow is held to a degree of care commensurate with the risk, or, as some authorities seem to hold to a high degree of care, or extreme care to avoid danger of collision, it is also a rule of general application that, as between a steamer and a tug, although drawing a cumbersome tow, it is the duty of the steamer to keep out of the way of the latter, and to exercise extra precaution to avoid collision. The *Westhall*, 153 Fed. 1010."

In the *State of Indiana* v. *Standard Oil Co.*, 8 Fed. 2d, 5121, the court held:

"The rules of navigation are not to be blindly followed to certain disaster."

In the *Tide*, 10 Fed. 791, the court held:

"He was not bound to anticipate or divine a violation of law by the other vessel. The conduct of tug adequately explains collision."

Serial No. 45

COLLISION CASE No. 25

Principal points involved.

(*a*) Overtaking vessel, rights and duties.
(*b*) Sagging of tow.
(*c*) Pilot rules as to tows.

Findings of court of inquiry.

(*a*) *Owl* liable for not getting passing signal.
(*b*) *Owl* was primarily liable.
(*c*) *Baldrock* was partially liable.

District court.

(*a*) Held *Baldrock* solely at fault and exonerated *Owl*.

Serial No. 45

COLLISION CASE No. 25

In the early morning of January 23 the Navy tug *Owl*, with two barges in tow astern was standing into Hampton Roads, Va. She was proceeding at a speed of about 6 knots. The weather was clear, visibility good, wind north-northwest force 3, tide flood.

About 0500 the *Owl* sighted a tug with two barges ahead and inside of Thimble Shoals Light. As first seen, the tug *Baldrock*, with the barges *Charles Hooper* and *Carpender* in tow, was sighted ahead and well over on the starboard hand, and near the north side of the channel.

The *Owl* seemed to be rapidly overtaking the tug *Baldrock*, and was passing, leaving her to starboard, but exchanged no signals. When the *Owl* was abreast of the *Baldrock's* tow with the tow to starboard, it was seen that the *Baldrock* had stopped. The barges *Hooper* and *Carpender* were seen to be drifting down toward the *Owl* and her tow.

The *Owl* now directed her course to port as far as possible, in order to avoid collision. Danger was imminent. However, this change of course was not sufficient to permit the *Owl* and her barges to pass clear.

The *Owl* and her first barge passed clear, but the second barge collided with the barge *Carpender*, the last barge in the *Baldrock's* tow. The *Carpender* was badly damaged.

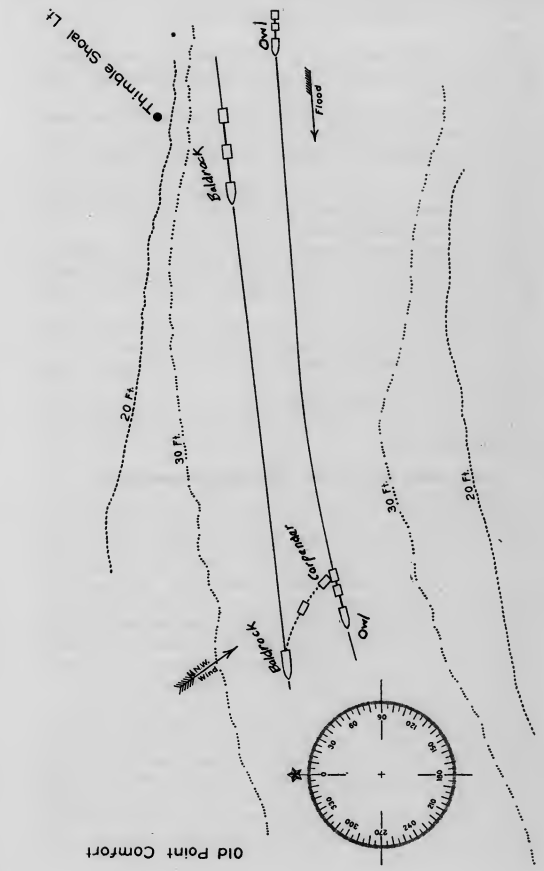
Testimony showed that the *Baldrock* had been towing her tow barges with tow lines of 200 fathoms. She had stopped to shorten tow lines to 75 fathoms when she was off Old Point Comfort well inside of Thimble Shoals Light. Port regulations require tow lines of not over 75 fathoms inside Thimble Shoals.

As seen by barge "Carpender"

The *Carpender* was light. She was in tow astern of the *Baldrock* and another barge. Both barges were on tow lines 200 fathoms in length. When inside of Thimble Shoals Light the tug stopped, and proceeded to shorten hawsers to 75 fathoms as required by the Pilot Rules.

The *Baldrock* had started ahead when the *Owl* with two barges astern in tandem with hawsers 75 feet and 50 feet in length was seen overtaking them, passing to port at a speed of about 5 miles per hour.

The *Carpender* was being set to the southward by the wind and tide. The *Owl* and the first barge passed clear, but the second collided with the *Carpender*.



The *Carpender* libeled the Government and the civilian tug, alleging—

That the collision was due to an error of judgment on the part of the officer of the deck of the *Owl* in that she did not keep clear as the overtaking vessel.

That the *Baldrock* was responsible in that she violated the regulations for tows and seagoing barges within inland waters by stopping inside Thimble Shoals for the purpose of shortening tow lines. (Pilot Rules, art. 3*a*.)

The owner of the *Carpender* alleges negligence and liability on the part of the *Baldrock* for not keeping a proper lookout astern to observe its tow and overtaking vessels.

She attempted to shorten hawser in the way of courses of inbound vessels. She further alleges liability and negligence on the part of the *Owl*, in that the *Owl* was proceeding at excessive speed under prevailing conditions.

And violation of article 18, rule 6 and rule 8 of Pilot Rules, attempting to pass without consent of vessels ahead in a channel.

The court of inquiry held the *Owl* liable as the overtaking vessel in failing to clear.

The district court held the *Baldrock* liable and exonerated the *Owl*.

The Federal courts in cases involving the rules applicable to the above case have held:

Overtaking vessels, their rights and responsibilities

In the *Holly Park*, 1930, A. M. C. 650, the court held as follows: "However much at variance the authorities may be, we have lately decided in *Industry-Viking*, 1928, A. M. C. 1894, 29 Fed. (2) –29 * * * that an overtaking vessel was 'obliged to hold herself in check against unexpected changes of course, and be prepared to meet them, until by consent of the vessel ahead she gets assurance that it is convenient for her to hold on.' That opinion needs no amplification to sustain the position taken and we now find it no extension of the principle to say that it applies exactly the same to a change of speed as to a change in course. The overtaking vessel is bound to keep such a distance behind that she can avoid a collision while permitting the vessel ahead to have freedom of choice in her navigation, both in respect to speed and changes of course. No duty is imposed on the overtaken vessel to maintain her speed for the benefit of the ship behind until she on signal assents to a passing and its attendant close approach or is advised that the overtaking vessel has come into a place of danger from which she can not avert a collision without the assistance of the vessel ahead. M. J. Rudolph, 1923, A. M. C. 1108–292 Fed. 740."

Conduct of tow—sagging of tow

In *Burro* v. *Overbrook*, 1927, A. M. C. 1521, the court held, "where it is plain fault for a tug to fail to keep its tow in line, it is not sufficient to raise a doubt as to management of the other vessel. The mere fact that an unencumbered vessel meets a tow does not bind the unencumbered vessel to anticipate negligent movements of the tow."

In *Overbrook*, 1930, A. M. C. 878: "This case involved sagging of a tow, allowing it to angle across channel due to wind and tide. The court held tug towing barges solely at fault, as she conducted a tow so that it angled and sagged."

Overtaking vessels, signals for passing, etc.

In *Integrity* v. *Thos. J. Howard*, 38 Fed. 2d, 39, the court held "* * * she proposed to vary prescribed duties and, though she got an assent, any peril in the change was hers. *Hokendaqua*, 251 Feb. 562, and in any event she must act in accordance with the agreement * * *.

"* * * The rules are peremptory just because they are intended to prevent such speculation, and if the navigation open to the other vessel, if it follows the rule, involves risk of collision, the only safe course is to treat the situation as dangerous."

In *Ambridge* v. *Willsolo*, 42 Fed. 971, the court held "whereas here the fault of one vessel is clearly established, the evidence of the other vessel's fault must also be clear and convincing in order to make out a cause for apportionment of damages. This principle has been repeatedly announced by the Supreme Court. *City of New York*, 147 U. S. 72; *Umbria*, 166 U. S. 404; *La Flendre*, 9 Fed. 2d, 331; *Yoshida Maru*, 20 Fed. 2d, 25."

Signals and passing

In *Gulf Trade*, 1920, A. M. C. 1815, the Supreme Court of the United States, in its opinion, said among other things—

"* * * the set of tide swung the tail of the tow to the eastward and more or less athwart the channel until it straightened out. * * * This, however, was a condition which the steamship was bound to anticipate and doubtless did. What happened was that the navigator of the ship, expecting the tow would go to the westward and seeing it was so headed, assumed it would be out of his way by the time he reached the passing point and that a passage up mid-channel would be clear. In this he miscalculated and hence the collision.

"We can not conclude that the *Taurus* was in fault. She was prudently navigated in plain view of the *Gulftrade*, who knew the relevant facts; and by assenting that the latter might pass she certainly did

not assume responsibility for the maneuver. At most the *Taurus* obligated herself to hold her course and speed so far as practicable, to do nothing to thwart the overtaking vessel, and that she knew of no circumstances not open to the observation of the *Gulftrade* which would prevent the latter from going safely by, if prudently navigated."

Here the court quoted article 18, Rule VIII, and articles 23 and 24 of the Rules of the Road:

"Under these regulations the duty of the *Gulftrade* was clear.

"In *Thoroughfare*, 277 U. S. 304, we said, 'The *Relief* was not at fault in accepting the passing signal of the *Thoroughfare*. This was merely an assent to the proposed passage in the rear of the *Enterprise*; expressing an understanding of what the *Thoroughfare* proposed to do and an agreement not to endanger or thwart it by permitting an interfering change in the position of the *Enterprise*. And the *Relief*, being in a position to fully carry out its agreement, was under no obligation to decline the passing signal because of the approach of the *Union* on the other side and to sound instead a warning signal.'"

In *Atlas Transfer Co.* v. *Lee Line Steamer*, 235 Feb. 492, the Circuit Court of Appeals had held, "The reply of the *Josh Cook* to the passing signal of the *Rees Line* was no more than an assent to it, at the risk of the vessel proposing it."

Whiteridge v. *Dill*, 64 U. S. 448, "The vessel astern, as a general rule, is bound to give way, or to adopt the necessary precautions to avoid a collision. That rule rests upon the principle that the vessel ahead, on that state of facts, has the seaway before her, and is entitled to hold her position; and consequently the vessel coming up must keep out of the way."

In Rhode Island Federal Case 11,745:

"The approaching vessel, when she has command of her movement, takes upon herself the peril of determining whether a safe passage remains for her beside the one preceding her, and must bear the consequences of misjudgment in that respect."

Rights of overtaken vessel

In *Industry* v. *Viking*, 29 Fed. 2d, 29, the circuit court held:

"* * * The only question can be as to whether the *Viking*, the vessel ahead, was not also at fault for her change of course. Article 24 puts the burden upon the overtaking vessel to keep out of the way till she is past and clear, and article 21 in general provides that whenever one vessel must keep out of the way, the other shall keep her course and speed. Therefore, taken without recourse to the other rules, it might be inferred that whenever one vessel is in fact overtaking another, the vessel ahead must hold her course and speed. However, Rule VIII, of article 18, further modifies the relative duties,

when each vessel is a steamer. If she would pass, an overtaking steamer must signal and before passing must get the consent of the steamer ahead. The rule concludes by saying that the steamer ahead shall in no case attempt to cross the bows of the overtaking steamer or to crowd upon her course. It is perhaps possible to read this language as referring to the period before the exchange of signals as well as thereafter, but it seems to us unreasonable to do so. In the first place, so construed it would add nothing to the general duty prescribed by article 21. Rather we think it intended to make clear that it is only after the exchange of signals that the duty of the vessel ahead begins at all.

"This is, besides, the only reasonable construction. The vessel ahead is usually overtaken because she has less speed and can not avoid it; the overtaking vessel may always slow down and keep astern. The rules provide for no signal by which the overtaken vessel may declare her purpose to change her course and speed, and if she is bound to keep both, she is, as it were, frozen in her navigation from the moment that the risk of collision begins, merely because the overtaking vessel begins to overhaul her, something which it is not always easy to ascertain. Thus she may be compelled to abandon her intended destination, or pass her berth, merely because the overtaking vessel insists upon passing.

"It is therefore fair to suppose that her consent is required not alone because she may think the passing dangerous in any case, but also because she may need to change her course for her own purpose, to which the interests of the overtaking vessel can hardly be considered equal. The latter should, therefore, be obliged to hold herself in check against unexpected changes of course and be prepared to meet them, until by the consent of the vessel ahead she gets assurance that it is convenient for her to hold on * * *. Suppose that an overtaking vessel in disregard of her duty undertakes to pass without giving the necessary signal. Should she get so near that any change of course by the vessel ahead would make it impossible for her to avoid collision, it may be that the vessel ahead must forego her privilege. **Courts are fond of saying that the rules are not to promote but to avoid collision,** and the situation is analogous to that in crossing cases. In these the holding-on vessel is bound to keep her course and speed, a duty strictly enforced; and yet the time may come when it is apparent that the giving-way vessel can no longer 'keep out of the way' unaided. At that moment the holding-on vessel's duty ceases and she is free and usually bound to change her course and speed. Conversely, in an overtaking case, though the overtaking vessel has wrongfully placed herself where she can no longer alone avoid collision if the vessel ahead changes her course or backs, we do not say that

the latter's privilege remains. All we do say is that while it remains possible for the overtaking vessel by proper navigation to accommodate herself to a change in course or speed of the vessel ahead, that vessel is not held to any duty, but may execute her purpose regardless of the overtaking vessel and in reliance upon her duty to keep out of the way."

As to lookouts and control of tow

In the *Authentic*, 37 Fed. 2d, 352, the court held:

"There was not any lookout posted forward on either float. There was no one charged with the duty of lookout in the transfer *No. 5*. The transfer *No. 5* and her flotilla, therefore, was proceeding without navigational eyes. I find the transfer *No. 5* in fault for not having a lookout.

"Under the influence of the following tide and wind, and owing to the fact that the *Authentic* apparently did not have power enough to keep it straightened out, the tow was tailing. To allow a tow to get into this situation in a crowded part of the river is wrong, and is the fault for which I condemn the *Authentic*. Wrestler, 252 Fed. 448; Madison, 250 Fed. 850."

Serial No. 46

GROUNDING CASE No. 11

Principal points involved.

(*a*) Set and drift of tide in making narrow entrance.
(*b*) Traffic in narrow entrance.
(*c*) Acts in extremes.

Findings and recommendations of court of inquiry.

(*a*) That the destroyer stopped in narrow waters when tide and wind would take charge.
(*b*) That destroyer failed to answer quickly in extremes.
(*c*) That commanding officer erred and grounding was result of error in judgment.

Serial No. 46

GROUNDING CASE No. 11

A destroyer had anchored off "Quarantine Buoy" at the entrance to the Hwangpoo. She was under orders to proceed up the river to Shanghai and oil from the U. S. S. *Pecos* at that city.

On March 2, about 1345, orders were received to proceed at once. At 1423 the destroyer got underway and proceeded toward the entrance. At 1433 she rounded to on the Hwangpoo entrance range near the Quarantine Buoy, standard speed 15 knots. The weather was clear, wind east-southeast, force 3–4, tide flood, force 4–5 knots at entrance.

The tide sets across the entrance, not up the channel.

The destroyer was proceeding at two-thirds speed, about 10 knots. As she swung on the range (250° true), a steamer (*Blue Funnel*) was seen coming down the Hwangpoo River and rounding the bend just inside the entrance. This was reported to the captain. The destroyer was heading about 225° true to make up for the set of the tide and wind. She was light, drawing only 10 feet 3 inches forward, 10 feet 5 inches aft.

The navigator at this time noticed that the ship was being set to the northward of the entering range. He reported this to the commanding officer.

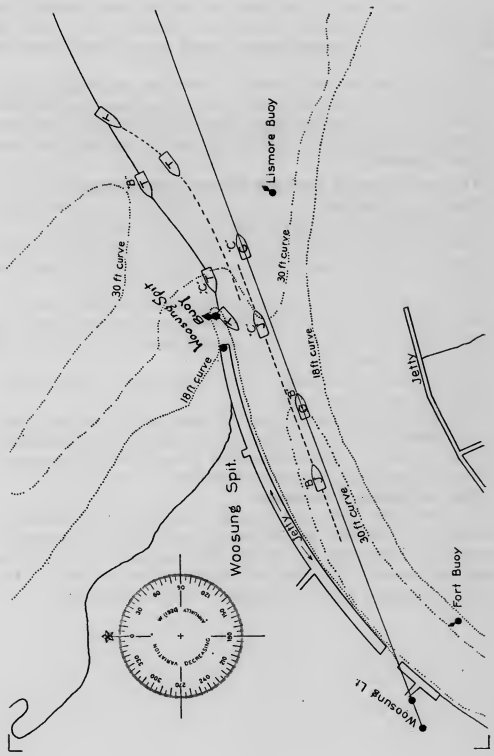
At this point the captain stopped both engines in order to allow the *Blue Funnel* steamer to clear the entrance buoys. (See sketch.) While so stopped the upper works of two other steamers were seen coming around the bend. This fact was reported to the captain.

When it was seen that the *Blue Funnel* would clear the buoys, the captain ordered two-thirds speed (10 knots). She was still steering 225° true. The destroyer was then about 100 yards north of the range. This was reported to the captain.

As the destroyer approached the Woosung Spit Buoy (see sketch), the two steamers that had been sighted around the bend appeared to be a British and a Japanese ship. These steamers seemed to be well to their left-hand side of the channel (to the northward of the range). This made it appear that they would come very close to the destroyer, particularly if the captain did not change course.

When the destroyer was about 200 yards from the Woosung Spit Buoy, it bore 50° on the starboard bow, or about 275° true, according to the navigator's testimony.

The navigator reported that the bearing of the buoy did not change. The testimony showed that he continued to take bearings, and it was



seen that the destroyer was drifting down on the spit buoy. Later he reported, "We are about to hit the buoy."

When the captain got the report, "We are about to hit the buoy," he stopped both engines, then sent port engine ahead standard and right rudder. The destroyer hit the buoy at about 1441. At about the same time the Japanese steamer passed to port distant about 100 yards.

When the buoy was clear, starboard engine was put ahead standard, but the rudder was not changed. As the ship cleared the buoy she seemed to touch bottom and then almost immediately the stern wave of the passing steamer hit the destroyer and put her upon the rocks at end of breakwater.

The court of inquiry found the following facts established:

That at 1433 the destroyer rounded on to Hwangpoo entering range from a position near the Quarantine Buoy, speed 10 knots.

That at 1434 she stopped both engines to permit *Blue Funnel* to clear the channel, and at 1436 went ahead two-thirds speed (10 knots).

That at 1440 two other steamers were sighted coming around the bend of the Hwangpoo, and that these steamers were being set to the north side of the channel by the strong tide and wind, crowding the destroyer over toward the Spit Buoy.

That at 1441 the destroyer stopped both engines and put rudder right to prevent fouling buoy.

That almost immediately after the destroyer hit the buoy, both engines ahead one-third was rung up in an attempt to clear the spit.

That at 1442 the destroyer touched bottom, cleared, and almost immediately stranded on the rock breakwater of Woosung Spit.

The court stated as its opinion:

No offense was committed by either the captain or navigator of the destroyer, but that the commanding officer erred in attempting to enter the channel in its crowded condition and in slowing down near the entrance buoy; that the grounding was the result of this error of judgment, and recommended no further proceedings.

Serial No. 47

GROUNDING CASE No. 12

Principal points involved.

(*a*) Error of compass.
(*b*) Bearings of lights and plotting of same.
(*c*) Night orders and reports to commanding officer.
(*d*) Duties of officer of deck.

Findings and recommendations of court of inquiry.

(*a*) That ship's position was not fixed on sighting a light.
(*b*) That officer of deck did not make proper reports to the commanding officer.
(*c*) That the captain and officer of deck be given letters of reprimand.

Serial No. 47

GROUNDING CASE No. 12

A destroyer left New Orleans June 27, 19—, stood down the river and passed out to sea through the South Pass. She was proceeding to Pensacola Bay, Fla.

When clear of South Pass at 1900, June 27, the course 51° true was set, 43° p. s. c.; departure was taken with South Pass lightship close aboard to port. The course as set was such as to pass Pensacola Bay entrance buoy close aboard. Speed 13 knots, weather fair, wind light from the south. The course set was such as to leave Sand Island Light to port distant 20 miles. The time of sighting this light should be 0200, June 28.

Prior to departure from New Orleans the compasses had been checked by the navigator on the course to be steered in proceeding from South Pass to Pensacola. The ship had been swung shortly before.

The captain had just taken command and had never been to sea before with any of the officers attached to this destroyer. He had no personal knowledge of their capabilities or those of the leading petty officers.

At the time of taking the departure the navigator was the officer of the deck, and he remained as such until 2100, when he was relieved by an ensign of little experience. This ensign remained on watch until after the grounding.

Shortly after the navigator was relieved the weather became cloudy, with passing rain squalls. These squalls varied in intensity. The change of weather was not reported to the captain nor to the navigator. The "night orders," as written, directed that all reports required by the Navy Regulations be made.

The "night orders" contained as a whole the data required by regulations as to lights, reports, etc.

About 0115 on the 28th a steady white light was sighted one point forward of the port beam. After observing it the officer of the deck identified it as Sand Island Light and sent word to the commanding officer. The messenger (quartermaster) reported it to the captain, but he did not call the navigator.

About 0120 the captain came on the bridge, observed the light, and after remaining for about 10 minutes went below.

While on the bridge the captain took pelorus bearings but no compass bearings. These bearings were not plotted. Before going

below the captain ordered the officer of the deck to take a beam and a quarter bearing and plot them. No other orders or instructions were given, nor did the captain check the position.

The light was abeam at 0134. From then on the light was seen intermittently until it was on the quarter at 0220. When on the quarter the officer of the deck took a bearing. However, the testimony was to the effect that this bearing was not very accurate.

These bearings were not plotted on the chart, nor was the distance the light was abeam worked out. Nor was the time or fact that these bearings were taken reported to either the captain or the navigator.

Before the officer of the deck could go into the emergency cabin to plot the position a heavy squall came up. This squall continued until about 0246, at which time it lifted.

As the squall cleared breakers were seen dead ahead. The officer of the deck backed both engines full speed, but the destroyer grounded before the ship's headway had been materially diminished. Subsequently, it was ascertained that she grounded between Sand Island and Pensacola Lights in latitude 30° 14′ 30″ N., longitude 87° 44′ W., 160 yards from the beach.

At the subsequent board of investigation and court of inquiry the following facts were brought out in the testimony:

The navigator was asleep in the wardroom but was not called by the quartermaster when he called the captain. His eyes were seen to open. The quartermaster thought he was awake.

The compass error was checked after the grounding. It proved that the error used was incorrect. Using the correct error the true course steered was 43° 30′ true instead of 51° true. No reason for this change of error could be found.

No soundings were taken nor was any reason advanced for not taking them.

No reason was advanced for the officer of the deck not having taken compass bearings of the light or plotting them.

The court navigator, from his working up the dead reckoning and observations, showed that if the bearings had been plotted and the run between used, the fact that the destroyer was off her course would have been ascertained.

Further, the testimony showed:

That the captain did not take continuous bearings until the light was abeam. He intended that bearings by the officer of the deck be taken at short intervals and plotted.

That he thought the destroyer was on the edge of the circle of visibility as the light's intensity varied, and that he did not believe the ship had been set to the northward.

The evidence of the officer of the deck was to the effect that he did not want to call the captain unless it was urgent. That he did not consider that there was anything urgent.

The board of investigation held that the captain was culpably negligent.

A subsequent court of inquiry found as its opinion:

That the commanding officer was negligent in not obtaining a fix while the ship had Sand Island Light in sight.

That the course as set by the navigator on taking his departure from South Pass Light vessel was correct, based on information available.

Further, that neither the commanding officer nor the officer of the deck were culpably negligent.

But that in both cases it was an error of judgment due to lack of experience.

The department, commenting, said in substance that the fact that the commanding officer of this destroyer had had 8½ years' sea duty, and a great part of it on a destroyer, could not sustain the finding that negligence was due to inexperience.

The captain and the officer of the deck were given letters of reprimand.

Serial No. 48

GROUNDING CASE No. 13

Principal points involved.

(*a*) Ship's organization.
(*b*) Fixing ship's position and navigational data.
(*c*) Night orders and reports to captain and navigator.
(*d*) Log writing.

Findings and recommendations of the court of inquiry.

(*a*) That navigating equipment was adequate and in good order.
(*b*) That the night order book was inadequate and not initialed by the officer of the deck.
(*c*) That the log was improperly kept and written at long intervals after occurrences.
(*d*) That ship's position was not fixed properly.
(*e*) That the captain, navigator, and officer of the deck be tried by general court-martial.

Serial No. 48

GROUNDING CASE No. 13

A submarine left the navy yard, Portsmouth, N. H., about 1430, January 12, 193—, en route to New London. At 1540 she took her departure with Isle of Shoals Whistle Buoy W–1 bearing 247° distant 200 yards, and set course 147°, speed 9.2 knots.

The submarine proceeded under both engines and no difficulty was experienced. Positions were checked with reasonable accuracy until about 2225, when Cape Cod Light was sighted. Shortly after this the port engine was stopped, as the captain did not desire to reach the entrance to Pollock Rip Shoal Light Vessel before daylight. Course was changed to 180° true at 2225. This course was steered for 10 minutes, when the course was again changed to 147°.

At 2347 she passed Cape Cod Light abeam to starboard, distant 6½ miles. The log later showed that this light bore west 270° true at 0105, January 13, at which time the course was changed to 177°. At 0237 Nauset Beach Light was sighted on the starboard bow. At 0306 passed Nauset Beach Light on starboard beam, distant 2 miles, and changed course to 170°.

At 0406 the submarine grounded on Nauset Beach at the entrance to Nauset Harbor about 4 miles south of Nauset Beach Light.

At the subsequent court of inquiry the following interesting facts were brought out:

The fixes used in navigating were more or less haphazard, the actual bearing being estimated and not actually taken with a pelorus or azimuth circle.

No record of bearings or of lights sighted was made in either the quartermaster's or messenger's notebook.

The entries in the rough log were made in pencil and the smooth log had not been written up for several days back.

The navigator did not personally attempt to fix the position of the vessel except when he was officer of the deck.

The gyrocompass was not checked to see if it was accurate or creeping. The magnetic compass was known to be inaccurate.

The captain's night orders were written up prior to the time of departure and were not changed because of subsequent changes of conditions on the way down. Weather conditions were not recorded accurately. It was overcast and snowing, with a heavy sea running.

The tidal conditions were studied prior to departure, but it appears that they were not accurately estimated or interpreted. Some data

relative to bearings and distances were taken and put on slips of paper with the intention of transferring them to the navigator's notebook later. These slips, however, were lost.

The log book was written up later from memory.

The course was changed by order of the navigator, but it was not reported to the captain, who had left the bridge about 2230, January 12.

A list of lights expected to be sighted was made and attached to the night orders.

The only people on the bridge seemed to have been the helmsman and the officer of the deck.

Some entries in the log book were erased, then reentered by the navigator. The log was not written up immediately after the watch nor copied into the smooth log book—sometimes for a week or more.

The court found in addition to the time of her departure, grounding, etc.—

That the navigating equipment was such as is furnished to vessels of her class, and was adequate and in good order.

That due to lack of favorable opportunity, the gyrocompass was not checked during the passage. No creeping off or other disturbance was observed.

That the captain's night order book was written between 1600 and 1800, January 12, in consultation with the navigator, and indicated in general terms only an outline of the expected track laid down by the navigator on the chart, together with instructions as to speed, to check compasses, to report lights, and to carry out regulations. Attached by a clip was a typed list of expected lights. The night order book was signed by the captain and initialed by the navigator, but neither of these was initialed by any other person.

That after writing his night order book, the captain made various changes of course and standard speed without amending his written orders.

That the quartermaster of the watch performed merely nominal duties. That the messenger kept a rough notebook corresponding to that usually kept by the quartermaster of the watch.

That a rough deck log was maintained in pencil, and that entries covering the time 1500, January 12, until the grounding, were meager, incomplete, unsatisfactory, and unreliable. Several watches were not written up until some time after the grounding and then only from memory and the partial notes.

That such bearings as were taken of the aids to navigation sighted were only rough estimates of relative bearings from the ship, made without the use of any instrument or artificial means. The fixes, when obtained, were mere estimates of bow and beam bearings and estimated speed.

That no reports were made to the captain after 2245, January 12, except sighting Nauset Beach Light.

That the ship grounded on Nauset Beach at about 0406, January 13.

The court found as its conclusion:

1. It is apparent that the entire administration and operation of the submarine from the time of leaving Isle of Shoals Buoy W–1 at 1540, January 12, up to the time of grounding was loose, haphazard, and perfunctory.

2. The watches were very carelessly stood, the logs and notebooks of record, except the rough engine-room data books, were very perfunctorily kept, the navigation was careless and inaccurate, no proper navigation notebook was used, and the navigator did not even keep his notes.

3. The captain's night order book was poorly written, was not initialed by the watch officers, and after various changes of course and speed had been made by his direction was not rewritten, corrected, or amended.

4. The vessel seems to have been in the breakers for some time before grounding, and some of the testimony seems to show that she touched about three times before she finally went aground. An important aid to navigation, Nauset Beach Gas and Whistle Buoy, was passed at a distance of about a mile, unseen, unknown to, and unexpected by the officer of the deck.

The ordinary reports of changes of course, distances of passing lights abeam, etc., were not reported to the commanding officer, nor even the vital fact that the ship was very much inside the expected track when passing Nauset Beach Light abeam.

Opinion of the court

The court is of the opinion that the commanding officer has incurred serious blame for the loose, haphazard, and perfunctory conduct of that vessel; that the grounding was the result of careless, inefficient and negligent navigational work performed, particularly in the matter of taking bearings and failing to obtain proper, definite, and reliable fixes when means were at hand to do so; the neglect to give intelligent and correct orders in his night order book; that the grounding was the result of the careless and inefficient navigation by the navigator.

The court recommended that the captain, navigator, and officer of the deck be tried by general court-martial for neglect of duty, allowing a vessel of the Navy to be stranded.

Serial No. 49

GROUNDING CASE No. 14

Principal points involved.

(*a*) Identification of lights.
(*b*) Soundings and speed in fog while making landfall.
(*c*) Follow the leader tactics.
(*d*) Night orders.

Findings and recommendations of court of inquiry.

(*a*) That grounding was caused by change of course on mistaken light.
(*b*) That responsibility rests on commanding officer of leading destroyer.
(*c*) That the captain and navigator of this destroyer be tried for hazarding a vessel of the Navy.

Serial No. 49

GROUNDING CASE No. 14

A destroyer division consisting of six destroyers was at anchor at Portland, England, where it received orders to proceed to Brest, France. The division commander called a conference, at which all the commanding officers were present. At this conference the question of courses, time of departure, etc., were discussed. The currents expected to be encountered on the run were figured from the charts, from navigational books available, and from questioning the English Channel pilot who was present. As a result it was decided to steer the course 221° true from the sea buoy off Portland Bill to Creac'h Point (Ushant). This course would take the division, without current, 2 miles to the westward of Creac'h. The current expected to be encountered would increase this distance to 7 miles. If an unexpected easterly set on the current should be encountered, there were four lights on the French coast that would be picked up prior to a dangerous approach to the coast.

The division got underway at 1604, December 2, 19—. Formation, column; speed, 13½ knots; distance, 400 yards; weather overcast and hazy, wind southwest, force 4–5, sea moderate; visibility, 10–12 miles.

The course followed the swept channel until at 1707, with the sea buoy abeam to starboard, distant one-half mile, course was changed to 221°. This was the course for Creac'h Point. At 1710 Portland Bill Light was abeam to starboard; distant, 2 miles.

Between 1900 and 2000 the division sheered out to starboard for 23 minutes to pass clear of approaching vessels. This resulted in a set of 3 miles to the westward.

The division commander was also commanding the division flagship. He wrote out his night orders as required by regulations and included a list of lights expected to be sighted, with the time of sighting and their characteristics. The following is quoted from the night order book:

"May sight any time after 0100 Creac'h Point Light (flashing white, revolving) and Ile Vierge, flashing white for one-half second every 5 seconds between 0300 and 0400."

The characteristics of these lights as taken from the light lists in use at that time are as follows:

"Creac'h Point (Ushant) group flashing white two flashes every 10 seconds; flash, one-tenth second; eclipse, 2⅕ seconds; flash, one-tenth second; eclipse, 7⅕ seconds; light, 223 feet, visible 21 miles.

"Ile Vierge, flashing white, flash every 5 seconds; flash, five-tenths second; eclipse, 4⅘ seconds; light, 252 feet, visible 22 miles."

About 0200, patchy drifting fog set in, reducing the visibility to about 5–8 miles. About 0445 the officer of the deck of the leading destroyer sighted a light well on the port bow and immediately reported the same to the captain and the navigator. This was the first light that had been seen since passing the steamers early in the night. The officer of the deck took bearings of the light, and from his testimony at the subsequent court of inquiry he stated that he believed it to be Creac'h Point light.

The captain, after he arrived on the bridge, looked at the light and took bearings of the same, and he also in his subsequent testimony stated that he believed it to be Creac'h Point.

At 0451 the light bore 170° true. A moment later the navigator arrived on the bridge. He subsequently stated that he also considered it to be Creac'h Point Light because of its double revolving flash.

Both the captain and the navigator were familiar with the waters and the lights to be expected on making this run, due to frequent cruising in that vicinity. The fog set in about this time much thicker and the light became dimmer.

At 0507 the light was abeam to port, bearing 131° true. The navigator and captain plotted the ship's position, using Creac'h Point as the light and the bearings and distance run between bearings for the plot. This put the ship about 4½ miles from Creac'h Point.

At 0522 the course was changed to 150° true in order to pass well clear of La Jument, which, if their position were correct, would be the next light sighted to port.

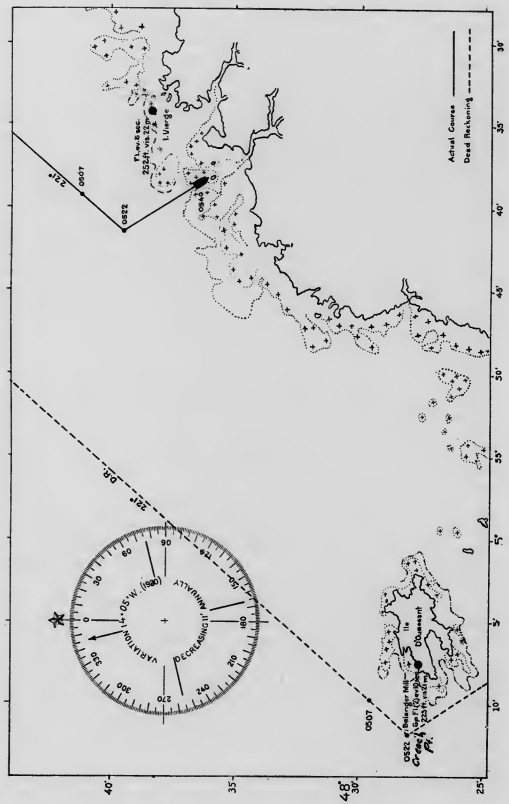
At 0530 the light used was abeam to port, but its loom was so faint that no bearing could be taken.

The other ships of the division changed course in the wake of the leader throughout the whole night. At no time had the lights on Pieres Nores and Stiff Point been sighted.

From 0530 on the captain and navigator of the leading destroyer were on the port wing of the bridge, looking for La Jument. At 0540 they saw a dark object loom up off the port bow at about 15 yards distant. At first they mistook it for a fishing smack, but almost immediately thereafter breakers were sighted.

The captain ordered hard right rudder; he blew one blast on the whistle and fired a green Very's star. The ship grounded almost immediately thereafter. Engines were ordered stopped. All this took place in about 30 seconds.

The next ship in the column stranded on the rocks about 200 yards to port of the leading destroyer. The other ships of the division, as



a result of quick handling and their position, were able to save themselves from grounding.

As a result of this grounding there was a court of inquiry. The following pertinent facts were adduced at this inquiry:

Evidence from the leading destroyer

Neither the captain, navigator, nor officer of the deck of this destroyer timed or otherwise checked the light sighted at 0445. They all stated that they believed it to be Creac'h Point because it seemed to show the double flashes which were characteristic of that light. The ship's position was plotted as if the light sighted was Creac'h.

The navigator laid off the course to pass 2 miles to the west of Creac'h Point and used Hydrographic Office publications and charts, although the data relative to channel currents were not as comprehensive as those contained in the British Admiralty publications which were or could have been available. The log was not accurately kept. It showed hazy weather, although the statements of witnesses were to the effect that the fog was drifting and dense at times, and fairly clear at other times.

The night orders stated that Creac'h Point might be sighted at any time after 0100, and Ile Vierge between 0300 and 0400. One witness stated that while range of visibility of Creac'h is set as 22 miles, that actually this light had been sighted as far as 78 miles under favorable weather conditions.

There appeared from the evidence that there was no doubt in the minds of anyone on the destroyers that the light sighted was Creac'h Point.

Testimony of the officers aboard the second destroyer

About 0445 the officer of the deck of the second destroyer sighted a flashing white light, single flash, bearing 200° true. This was reported to his captain. He checked the time of the flash and reported it as being Ile Vierge. At 0522 he reported that the flagship had changed course to port. He followed the changed course, as his orders were to follow the leader.

At 0540 the captain came on the bridge. He stated that he did not consider the change made by the flagship as safe. He arrived just as his ship grounded.

The chart was not kept in a place convenient for the officer of the deck to use. The officer of the deck's orders were to follow the flagship. The night orders were not properly written up, in that they did not contain information as to lights to be sighted, etc.

The officer of the deck in his testimony stated that he was satisfied that the light sighted was Ile Vierge but that he had no chart available on which to plot the ship's position, and that he did not realize the ship was standing into danger.

Testimony of other officers

The testimony of officers on the other destroyers was to the effect that the light sighted was Creac'h Point, but that they made no accurate check of the time of flash, etc.

One officer stated that the course was changed about 20 minutes sooner than he had expected, but he was not worried as to consequences, as he believed the flagship knew what she was doing. The division was actually set 19 miles to the east and 24 miles back on its course.

The court navigator, in his report to the court of inquiry, found that the set and drift of the current from the time of departure until the grounding was 101° true, 6.2 knots, and that the dead reckoning position at 5.35 a. m. was latitude 48° 29′ N., longitude 4° 57′ W. The dead reckoning of the grounding as fixed on Ile Vierge Light was latitude 48° 36′ 30″ N., longitude 4° 40′ 30″ W., and the true position of the grounding was latitude 48° 36′ 43″ N., longitude 4° 38′ 28″ W. That the rate and direction of the tide at the position of grounding was direction east-northeast, rate 3 to 5 knots.

Excerpts from the argument of the commanding officer of the leading destroyer

The navigational data for the leading destroyer was carefully worked out and checked. That the officers concerned in the navigation of that vessel were painstaking, earnest, and assiduous in the performance of their duties. That all available means at hand were used; that all competent witnesses agreed that a course of 221° true was correct and safe; that four competent observers on the leading destroyer and four on the following destroyers identified the light as Creac'h Point Light until after the grounding; that the position of the leading destroyer was carefully checked by the captain and navigator a few minutes before the grounding, and that from the position plotted a safe course was set to clear all danger; that the destroyer was approximately 19 miles behind and 17 miles to the eastward of her dead reckoning position at the time of grounding; that the light on which the turn was made was not clearly or distinctly seen, but the loom of it was seen giving a double flashing revolving light, similar in its general appearance to Creac'h Point Light; that timing of this light would not have been accurate or serve to identify it; that the sighting of a light showing the loom of a double flash on a correct bearing and within a few minutes of the time of sighting it the responsible officers of the leading destroyer were justified in identifiying it as Creac'h Point Light.

The commanding officer of the second destroyer stated in his argument (1) that the light sighted was positively identified as Ile Vierge; (2) that until the course was changed the ship was safe; (3) that he had no reason to believe that the flagship would turn toward the shore; (4) that as soon as he knew the ship was on an unsafe course, he started for the bridge to correct it; (5) that by experience of about a year on this coast he knew that lights are not always picked up on time.

The court found, in addition to the above-stated facts, that at about 0445 a light was sighted by the officer of the deck of the leading destroyer, bearing about 170° true. The bearing was taken by the officer of the deck and checked by the commanding officer. At 0507 the light was abeam, bearing 131° true. Bearings were plotted by the navigator, checked by the captain, and the position of the destroyer at 0507, when the light was abeam, was fixed as distant 4¼ miles. That at 0522 the navigator, authorized by the captain, changed the course to 150° true. That signals and warnings were promptly made by the leading destroyer in an attempt to save other vessels of the division. That the destroyer next astern of the leader was distant about 300 yards and did not receive warning in time to prevent her from being stranded. That the running upon the rocks of these two destroyers was caused by a change of course by the leading destroyer at 0522 when Ile Vierge Light bore 94° true, distant 5.4 miles, this course being not a safe course to steer.

Opinion of the court

The court is of the opinion that the responsibility for the stranding of these two destroyers on the morning of December 3, 19—, rests with the commanding officer of the leading destroyer and recommended that the commanding officer of this destroyer be tried by general court-martial for negligence in suffering a vessel of the Navy to be run upon the rocks and hazarded, and in negligently and neglectfully failing to identify or attempting to identify the light that was sighted.

The court further recommended that the commanding officer of the second destroyer be given a letter of admonition.

GROUNDING CASE No. 15

Principal points involved.

(*a*) Speed in fog, approaching land.
(*b*) Authority and duties of division commander and captain of leading ship in a division.
(*c*) Soundings and fixing position.
(*d*) Duties of navigator.

Findings and recommendations of court of inquiry.

(*a*) That grounding was due to failure to anticipate currents.
(*b*) Approaching land in a fog at too high a speed.
(*c*) Unreliability of soundings approaching shoal water.
(*d*) That division commander erred in judgment.
(*e*) That commanding officer was remiss in performance of his duties; that no further action be taken against the division commander and that the captain and navigator be given letters of reprimand.

Action of convening authority.

(*a*) The division commander and captain be tried by general court-martial for hazarding a vessel of the Navy.

GROUNDING CASE No. 15

A division of destroyers was at anchor in Menemsha Bight. At 0800 on the morning of August 20 they got under way for Cape Cod Canal with the intention of proceeding through Quicks Hole. The sea was smooth, the weather hazy, visibility about 3,000 yards, wind southwest, force 1, standard speed 18 knots.

The course was set as 328° true so as to pass about 400 yards to the eastward of the buoy 1A at the southern entrance to Quicks Hole. The leading destroyer took her departure from a position, bearings as follows: Gay Head lighthouse bearing 249° true, Menemsha Bight jetty beacon 136°.

About 0815 a fog began to close in from the northward and at 0820 it was thick.

The leading destroyer proceeded as follows:

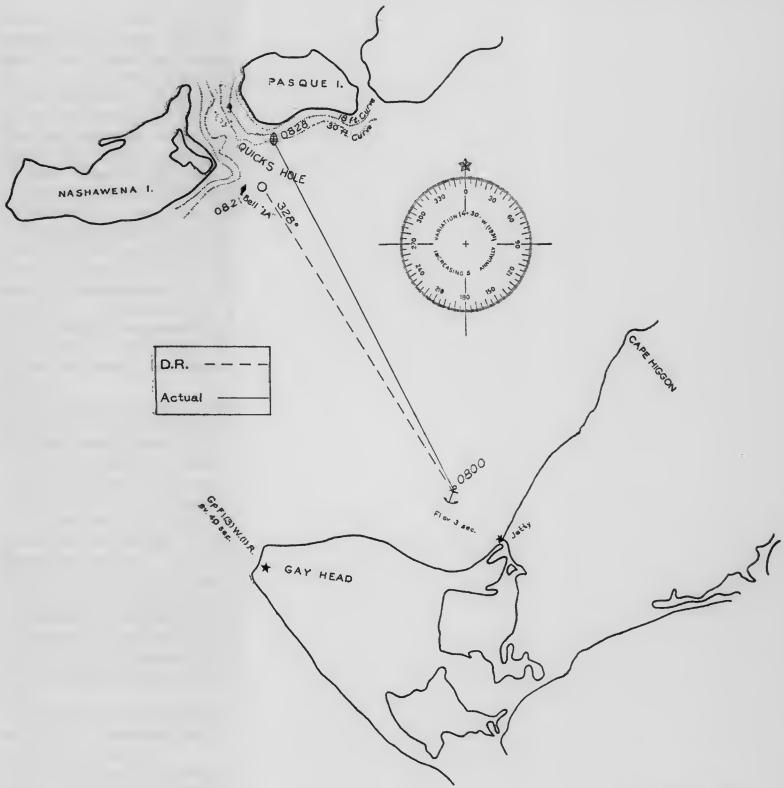
Time	Knots
0803	6
0806	12
0810	18
0820	12
0822	6
0828 back full.	

The division commander, the captain, and the navigator were all on the bridge.

As the destroyer proceeded toward the entrance to Quicks Hole all courses were laid out so as to conform with the sailing directions in the Coast Pilot; compasses had been checked. The commanding officer and division commander believed that the buoy 1A would be abeam about 0821.

At 0820, when the heavy fog set in, speed was reduced to 12 knots. The fog whistle was started, a man was stationed in the eyes, and another by the anchor, ready to let go. The hand lead was started.

The leadsman reported no bottom at 0821. As it was believed by the navigator that this was inaccurate, he requested the captain to slow down. Speed was reduced to 6 knots. The next thing that occurred was the man in the eyes calling out at about 0828, "Land



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ahead." The captain backed full speed both engines, followed by emergency full speed, three blasts on the whistle. The starboard anchor was dropped and almost immediately the destroyer grounded. None of the following destroyers grounded.

The navigator, in his testimony, stated that he checked his run and figures and was positive that the buoy 1A should be abeam at 0821. That the compasses were checked and that an azimuth on approximately the course to be steered was taken early that morning and checked. That the gyro was checked and seemed accurate.

Testimony of other witnesses was to the following effect:

That lookouts, etc., were alert, that the bells to the engine room were answered, and that all precautions were taken.

In his report the commanding officer agreed substantially with the above and continued: "When the fog set in I estimated the destroyer would be abreast of buoy 1A at 0822 if we made 18 knots from getting under way. I slowed so that the leadsmen might get bottom."

The division commander stated in his report that at 0818 speed was reduced to two-thirds, 12 knots. The fog suddenly thickened and at 0822 speed was reduced to one-third. The fog whistle was started.

The leadsman reported no bottom. Consent had been given the navigator to stop so as to get accurate soundings. Decision was made to anchor until fog lifted, and the ship was feeling her way to anchorage, when at 0828 the lookout in the bow reported land.

The testimony of the commanding officer of the second destroyer in formation was in substance as follows:

"At 0806 we went ahead one-third speed and cast to starboard. At 0813 we went ahead two-thirds speed course signal 328° true and sheered into column. At 0814 standard speed. At 0816 spotted fog settled down. We went two-thirds speed in obedience to a radiosignal from the division commander. At 0824 our reckoning put us just short of the entrance bell buoy, which we failed to pick up. A radiosignal, one-third speed received, which we executed. From then on until 0831 we went at various speeds, when the backing signal of the leading destroyer was heard. We anchored and stood by to assist."

In answer to the question, "What course did you steer?" he answered, "I estimated at the time 330° true to be the course as steered by the leader."

The course steered whenever leader was not in sight was about 329.30, and when the leader came into sight we would rectify the column. Every time we had to rectify we had to sheer to the right 50 yards. This occurred three or four times.

Question. At the time the leader grounded what was your dead reckoning position?

Answer. Six hundred to eight hundred yards below entrance buoy, not allowing for any current. The current across the sound was easterly and at the entrance to the Hole it was southerly. The leader was about 400 yards ahead of us.

The destroyer grounded at 0828 on the southwest corner of Pasque Island, Mass. The position of grounding was buoy 1A, bearing 208°, south tangent Nashawerra Island 232° true.

In addition to the preceding the court found the following facts established:

That the bell buoy 1A was never sighted nor heard.

That the destroyer, eight days before grounding, had compensated the standard compass and swung ship for residuals and new deviation table as posted.

That the azimuth taken on the morning of the grounding was inaccurately worked out.

That the last fix taken prior to the grounding was while the destroyer was at anchor and that from the time of getting under way until the ship grounded no check was made of the course or distance made good.

That the actual movement of the ship from anchorage to grounding position was a distance of 5.3 miles.

That the actual position of the ship on taking the ground, as compared with the dead reckoning position used by the navigator, showed a current whose drift was 1,300 yards with a set in a direction N. 89° E.

That best tidal data available at the time for the same run showed a current whose drift was 700 yards set N. 89° E., and that had this current, which could have been expected, been applied to the dead reckoning position used by the navigator, it would have shown the ship in shoal water.

The court expressed its opinion in substance as follows:

That the grounding was due directly to the following causes—

(1) Not having given due consideration to currents which should have been anticipated from tidal data available.

(2) Approaching land in a fog, carrying excessive headway without sufficient data regarding course and distance made good.

(3) Unreliability of soundings upon approaching shoal water.

That the division commander was not sufficiently advised by the navigating personnel of the dangerous situation existing just prior to grounding, and that the division commander erred in judgment in not taking more drastic action earlier.

That the commanding officer was remiss in the performance of his duty, in that he did not more accurately inform himself of the position under existing circumstances.

And that the commanding officer erred in judgment, in that he failed to take drastic measures in a fog in time to avoid needlessly running his ship into danger.

That the navigator failed in performance of his duty, in that having run the elapsed time necessary to arrive in proximity to a navigational landmark, beyond which the ship would rapidly approach dangerous waters, he failed to make recommendation to his commanding officer as to action which should be taken.

The court recommended as follows:

That no further action be taken against the division commander but that the captain and navigator be given a letter of reprimand.

The convening authority expressed his opinion as follows:

That in the case of the division commander further action is necessary for the following reasons:

This officer was actually exercising command over a division of ships and was duly warned that the flagship would arrive abreast of buoy 1A at 0821, beyond which there was no reason to proceedisn a fog, and any course beyond this buoy led into danger, either aground or in a very awkward position for anchoring in Quicks Hole.

That the captain of the ship should have known that any procedure beyond buoy 1A led into danger and that even if bottom had been obtained by lead at 6 fathoms he would be confronted by a dangerous situation.

That the division commander and the captain be brought to trial by court-martial.

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